

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KENNY HILL,	)	
	)	Civil Action No. 05-160E
Plaintiff,	)	
	)	Judge McLaughlin
vs.	)	
	)	Magistrate Judge Baxter
	)	
JOHN LAMANNA, ET AL.,	)	(Electronically Filed)
	)	
Defendants.	)	

**MOTION TO DISMISS, OR IN THE ALTERNATIVE,  
FOR SUMMARY JUDGMENT**

AND NOW, come defendants, by their attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Albert W. Schollaert, Assistant United States Attorney for said district, and, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, respectfully moves this Court to issue an Order dismissing the Complaint of Plaintiff, Kenny Hill, or, in the alternative, for summary judgment in favor of the defendants, upon the ground that there is no genuine issue as to any material fact and that the defendant is entitled to judgment as a matter of law.

A Memorandum of Law in support of this motion, together with Declarations of Joyce Horikawa, Lynnell Cox are being filed simultaneously herewith and the contents therein incorporated by reference.

WHEREFORE, defendants respectfully request that this Court issue an Order dismissing the Complaint of Plaintiff, Kenny Hill, or, in the alternative, for summary judgment in favor of the defendants.

Respectfully submitted,

MARY BETH BUCHANAN  
United States Attorney

S/ Albert W. Schollaert  
ALBERT W. SCHOLLAERT  
Assistant U.S. Attorney  
Western District of PA  
U.S. Post Office  
and Courthouse  
700 Grant Street, Suite 4000  
Pittsburgh, PA 15219  
(412) 894-7416  
PA ID # 23629

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within Defendant's Motion to Dismiss, or in the alternative, Motion for Summary Judgment and the supporting Memorandum of Law were electronically filed and/or served via First Class U.S. Mail on this 15th day of September, 2006, upon the following:

Kenny Hill  
Reg. No. 17110-016  
FCI Petersburg  
P.O. Box 1000  
Petersburgh, VA 23804

S/ Albert W. Schollaert  
ALBERT W. SCHOLLAERT  
Assistant U.S. Attorney